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NO. OF PAGES
(Including Cover Sheet) : 4

FROM : Galina M. Yakovleva, Ph.D.

DEPARTMENT NAME : Legal Division

TELEPHONE : 858.622.6095

DATE : November 30, 2005

PC19150A; Appln No. 10/811,513

MESSAGE:

Submitted herewith is the following:

1. RESPONSE TO RESTRICTION/ELECTION REQUIREMENT UNDER 35 U.S.C. 121

2 pages.

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PC19150A
Response to Restriction/Election Requirement Under 35 U.S.C. 121 for
Appln. No. 10/811,513

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Christina M. Compelube
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: Canan-Koch et al.	Group Art Unit: 1624
Serial No.: 10/811,513	Examiner: Kifle, Bruck Ph.D.
Confirmation No.: 1955	
Filed: March 29, 2004	Attorney Docket No.: PC19150A
For: SALTS OF TRICYCLIC INHIBITORS OF POLY(ADP- RIBOSYL)POLYMERASES	

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P.O. Box 1450
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**RESPONSE TO RESTRICTION/ELECTION REQUIREMENT UNDER
35 U.S.C. 121**

This Election is responsive to the Office Action mailed November 4, 2005. The Office Action, in the form of a restriction requirement, set forth a one month period of time to reply. Accordingly, this Election is being submitted before or on its current due date of December 4, 2005.

In response to this Office Action, consideration of the following remarks is respectfully requested.

REMARKS

Restriction Requirement

Claims 1-12 stand restricted into 7 groups defined at page 2 of the outstanding Office Action.

Applicants hereby elect Group II drawn to a chemotherapeutic combination with traverse. Claims 4-7 read on the elected group. In the event the claims of Group II are found allowable, Applicants respectfully request rejoinder and search of the subject matter of Group I and Group III, in part, limited to a method of improving the effectiveness of a cytotoxic drug.

The restriction requirement is respectfully traversed for the following reasons.

- 1 -

Serial No. 10/811,513
Conf. No. 1955

In order to require restriction between independent or distinct inventions, the Examiner must show that searching the entire scope of Applicants' claims is a serious burden. M.P.E.P. § 803.

Applicants submit that at least the subject matter of Groups I-III are so closely related, that a search and examination of Claims 1-8 can be made without serious burden. The chemotherapeutic combinations of Claims 4-6 of Group II include the phosphate salt of 8-fluoro-2-(4-methylaminomethyl-phenyl)-1,3,4,5-tetrahydro-azepino[5,4,3-cd]indol-6-one of Claim 1 and a chemotherapeutic agent. Claim 8 of Group III is directed to a method of improving the effectiveness of a cytotoxic drug which method comprising: administering to the mammal an effective PARP-inhibiting amount of the phosphate salt of 8-fluoro-2-(4-methylaminomethyl-phenyl)-1,3,4,5-tetrahydro-azepino[5,4,3-cd]indol-6-one of Claim 1 in conjunction with the administration of the cytotoxic drug. Applicants note that a proper search of the chemotherapeutic combinations of Claims 4-6 would, by necessity, require a proper search of the phosphate salt of 8-fluoro-2-(4-methylaminomethyl-phenyl)-1,3,4,5-tetrahydro-azepino[5,4,3-cd]indol-6-one of Claim 1 and the method of Claim 8. Thus, Applicants submit that the entire group as presently claimed can be searched simultaneously, and that a duplicative search, with possibly inconsistent results, may occur if the restriction requirement is maintained. Accordingly, this renders the restriction requirement as improper. See MPEP 803.

In light of the above, Applicants submit that, at the very least Groups I-III should be combined. Reconsideration and withdrawal of the restriction are earnestly solicited.

Conclusion

Applicants believe all claims are now in condition for allowance. Should there be any issues that have not been addressed to the Examiner's satisfaction, Applicants invite the Examiner to contact the undersigned attorney.

Applicants do not believe any fees are due in connection with this response. If any fees are due in connection with this response, please charge such fees to Deposit Account No. 500329.

Respectfully submitted,

Date: November 30, 2005

Galina Yakovleva

Galina M. Yakovleva, Ph.D.
Attorney For Applicants
Registration No. 47,192

Agouron Pharmaceuticals, Inc./A Pfizer Company
Patent Department
10777 Science Center Drive
San Diego, California 92121
Phone: (858) 622-6095
Fax: (858) 678-8233